

NO. 25872

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

TIMOTHY FOSTER JONES, Plaintiff/Counterclaim Defendant-
Appellant/Cross-Appellee

vs.

OWNERS AND OCCUPANTS OF ADJOINING LANDS; STATE OF HAWAI'I,
Defendant-Appellee/Cross-Appellant

HOWARD RUGGLES GREEN, WARREN JAY GUNDERSON and JAMES WALKER
AUSTIN, TRUSTEES OF THE JAMES WALKER AUSTIN TRUST DATED JUNE 7,
1985; RICHARD F. LERT and CARL E. YORK, JR., TRUSTEES OF THE
DANIEL J. FAIRBANKS III TRUST DATED OCTOBER 31, 1986; HOWARD
RUGGLES GREEN and WARREN JAY GUNDERSON, TRUSTEES OF THE SIANA
AUSTIN TRUST DATED JUNE 22, 1990 and TRUSTEES OF THE JAMES WALKER
AUSTIN III TRUST DATED JUNE 22, 1990,
Defendants/Counterclaimants-Appellees/Cross-Appellant

BURK W. JONES AND JOAN DIANE JONES, TRUSTEES UNDER THE BURK W.
JONES AND JOANIE D. JONES REVOCABLE LIVING TRUST AGREEMENT DATED
JANUARY 15, 1993, Defendants-Appellees

HEIRS AND ASSIGNS OF KAINIKI (k); HEIRS AND ASSIGNS OF
KALAWAIANUI (w); OFFICE OF HAWAIIAN AFFAIRS; HEIRS AND ASSIGNS OF
ANNIE LEI WINCHESTER (including LOWELL THOMAS YOON, WESLEY KAIWI
NUI YOON and FERN MAHEALANI YOON); HEIRS AND ASSIGNS OF MABEL
K.P. CUMMINGS (also known as Mabel G. Cummings and as Mabel Gahan
Cummings); HEIRS AND ASSIGNS OF MAPUANA NAILIMI (also known as
Mapuana Kishi); HEIRS AND ASSIGNS OF HELEN FULLER (also known as
Helen S. Fuller and as Helen Scott Fuller); and Heirs of persons
named above who are deceased, or persons holding under said
Heirs; HERBERT A.K. CAMPOS; HAUNANI CAMPOS OLDS; MARIELENA R.
MEYER; CHARLES PILA; HARRY G. CUMMINGS, JR.; MARGARET T.
CUMMINGS; IRENE MILILANI BISHAW, RUSSEL GEORGE KALEOLANI PHIFER,
JOHN K. PERREIRA aka JOHN KAWAI PERREIRA; DOE DEFENDANTS 4
THROUGH 100; and all persons or corporations unknown claiming any
right, title, estate, lien or interest in the real property
described in Plaintiffs' Complaint adverse to Plaintiffs'
ownership and TO ALL WHOM IT MAY CONCERN, Defendants

BURK W. JONES AND JOAN DIANE JONES, TRUSTEES UNDER THE BURK W.
JONES AND JOANIE D. JONES REVOCABLE LIVING TRUST AGREEMENT DATED
JANUARY 15, 1993, Plaintiffs/Counterclaim Defendants-Appellees

vs.

HOWARD RUGGLES GREEN, WARREN JAY GUNDERSON and JAMES WALKER AUSTIN, TRUSTEES OF THE JAMES WALKER AUSTIN TRUST DATED JUNE 7, 1985; RICHARD F. LERT and CARL E. YORK, JR., TRUSTEES OF THE DANIEL J. FAIRBANKS III TRUST DATED OCTOBER 31, 1986; HOWARD RUGGLES GREEN and WARREN JAY GUNDERSON, TRUSTEES OF THE SIANA AUSTIN TRUST DATED JUNE 22, 1990 and TRUSTEES OF THE JAMES WALKER AUSTIN III TRUST DATED JUNE 22, 1990,
Defendants/Counterclaimants-Appellees/Cross-Appellants

OWNERS AND OCCUPANTS OF ADJOINING LANDS; STATE OF HAWAII,
Defendant-Appellee/Cross-Appellant

TIMOTHY FOSTER JONES, Defendant/Counterclaim Defendant-
Appellant/Cross-Appellee

IRENE MILILANI BISHAW; RUSSEL GEORGE KALEOLANI PHIFER; JOHN K. PERREIRA (also known as John Kawai Perreira); HEIRS AND ASSIGNS OF NAKOKO (k); HEIRS AND ASSIGNS OF A. ROSA; OFFICE OF HAWAIIAN AFFAIRS; HEIRS AND ASSIGNS OF THEODORE DUDOIT (also known as Theodore Nawahine Dudoit); HEIRS AND ASSIGNS OF ANNE LEI WINCHESTER (including LOWELL THOMAS YOON, WESLEY KAIWI YOON and FERN MAHEALANI YOON); HEIRS AND ASSIGNS OF MABEL K. P. CUMMINGS (also known as Mabel G. Cummings and as Mabel Gahan Cummings); HEIRS AND ASSIGNS OF MAPUANA NAILIMA (also known as Mapuana Kishi); HEIRS AND ASSIGNS OF HELEN FULLER (also known as Helen S. Fuller and Helen Scott Fuller); and Heirs of persons named above who are deceased, or persons holding under said Heirs; HERBERT A.K. CAMPOS, HAUNANI CAMPOS OLDS, PATRICK CAMPOS, MARIELENA R. MEYER, CHARMAINE D. ARMITAGE; DOE DEFENDANTS 6 through 100; and all other persons or corporations unknown claiming any right, title, estate, lien or interest in the real property described in Plaintiffs' Complaint adverse to Plaintiffs' ownership and TO ALL WHOM IT MAY CONCERN, Defendants

APPEAL FROM THE SECOND CIRCUIT COURT
(CIV. NOS. 98-0355 and 98-0358)

ORDER DENYING MOTION FOR RECONSIDERATION

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Upon review of (1) our April 23, 2004 "Order Dismissing the Appeal in Part and Requiring Re-Briefing," (2) Plaintiffs/Counterclaim Defendants/Appellants/Cross-Appellees Burk W. Jones,

Joan Diane Jones and Timothy Foster Jones's (the Jones Appellants) May 3, 2004 motion for reconsideration pursuant to Rule 40 of the Hawai'i Rules of Appellate Procedure (HRAP), (3) Defendant/Appellee/Cross-Appellant Owners and Occupants of Adjoining Lands; State of Hawaii's May 4, 2004 joinder in the Jones Appellants' May 3, 2004 HRAP Rule 40 motion for reconsideration, and (4) the record,

IT IS HEREBY ORDERED that the Jones Appellants' May 3, 2004 HRAP Rule 40 motion for reconsideration is denied.

DATED: Honolulu, Hawai'i, May 13, 2004.